

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS**

JAMES MUNSON,

Plaintiff,

vs.

DONALD HULICK, et al.,

Defendants.

)
)
)
)
)
)
)

Case No. 10-cv-52-JPG-PMF

REPORT AND RECOMMENDATION

FRAZIER, Magistrate Judge:

Before the Court is plaintiff James Munson's motion for a preliminary injunction and/or temporary restraining order (Doc. No. 34). Munson is proceeding against defendants Hulick, Gaetz, Walker, and Randle on a claim regarding the conditions he experienced while confined in the North 1 cell house at Menard Correctional Center. Specifically, he alleges that these defendants were award of various harmful conditions and failed to correct the problems.

In the current motion, Munson states that he has been confined in a different part of the prison – North II – for weeks. He complains about the conditions in North II and seeks an order directing the “Menard Administration” to move him to the “South Uppers.” The Court infers that the motion is directed to the current warden at Menard, who is not a defendant in this case.

On both requests, Munson has the burden of showing (1) a reasonable likelihood of success on the merits, (2) no adequate remedy at law, and (3) irreparable harm if injunctive relief is denied. *Graham v. Med. Mut. of Ohio*, 130 F.3d 293, 295 (7th Cir. 1997). Furthermore, the Court must be persuaded that the relief sought is narrowly drawn, extends no further than necessary to correct the violation of the federal right, and is the least intrusive means necessary to correct the violation. 18 U.S.C. § 3626.

Munson has not shown a reasonable likelihood of success on his § 1983 claim. He has an adequate remedy at law, namely a separate lawsuit against the appropriate defendant regarding the conditions he has been exposed to for the past few weeks in North II. Also the relief Munson seeks would violate § 3626(a)(2).

IT IS RECOMMENDED that the motion for a preliminary injunction or temporary restraining order (Doc. No. 34) be DENIED without prejudice to Munson's right to seek that relief in separate litigation against an appropriate defendant.

SUBMITTED: January 24, 2011 .

S/Philip M. Frazier
PHILIP M. FRAZIER
UNITED STATES MAGISTRATE JUDGE